

MARC J. HELD*

PHILIP M. HINES*

*ALSO ADMITTED IN NEW JERSEY



MATTHEW R. GROSSO

EDWARD S. MILLER

URI NAZRYAN

OF COUNSEL

JACK ANGELOU

SHERRY D. DANZIG

June 21, 2021

Honorable Kiyo A. Matsumoto
 U.S. District Court, Eastern District of New York
 225 Cadman Plaza East, Room S905
 Brooklyn, New York 11201

Re: *Mirvis, et al. v. Berkshire Hathaway, et al.*
 21 Civ. 02210

Brody v. Berkshire Hathaway, et al.,
 21 Civ. 02481

Viscardi v. Government Employees Insurance Company, d/b/a GEICO, et al.,
 21 Civ. 02540

Dear Judge Matsumoto:

As counsel for Plaintiffs in the *Mirvis* action, I am writing in response to the two letters of Gary S. Graifman, Esq., of the firm of Kantrowitz, Goldhammer & Graifman, P.C., attorneys for Plaintiffs in the *Brody* action, the first, dated June 11, 2021, seeking a pre-motion conference on the issue of consolidation of the three actions listed above, and the second, dated June 21, 2021, recounting Mr. Graifman's efforts to secure voluntary transfer of the related District of Maryland and Southern District of California cases against GEICO to the Eastern District of New York. I am also responding to the letter of Shari Claire Lewis, Esq., of the firm of Rivkin Radler LLP, attorneys for Defendant GEICO herein, dated June 11, 2021, seeking a pre-motion conference on the issue of staying all proceedings in the *Mirvis* action pending efforts to consolidate the three actions listed above and similar actions in other Districts, as well as seeking an extension of time to respond to the complaint pending consolidation efforts or, in the alternative, until the decision of a Multi-District Litigation (MDL) petition.

I have no opposition to extending GEICO's time to respond to the Complaint. Further, because the factual and legal issues of the three cases listed above pending in the Eastern District of New York, as well as the cases in the District of Maryland and the Southern District of California, are expected to be similar, if not identical (with the exception of variations in state law regarding cybersecurity safeguards to protect personal identifiable information as applied to ancillary state claims), and in the interest of economy and consistency of decisions, I support consolidation and a stay pending same.

However, I would request that this Court allow an additional reasonable period of time for all parties to consolidate and coordinate these actions, including transfer, on a voluntary basis before the MDL petition is brought. If the above three actions are consolidated in the Eastern District, a stronger case can be made in any MDL petition for transfer to and consolidation in this District. If, despite Mr. Graifman's vigorous efforts, voluntary transfer still cannot be accomplished, I still view consolidation

of the three Eastern District cases as worthwhile, but I agree that at that point, an MDL proceeding may be needed. If such a proceeding were initiated by Defendant, it would be this firm's intention to seek a leadership role based upon *Mirvis* being the first-filed case in the nation, among other reasons.

I thank the Court for all courtesies extended and await the Court's guidance.

Respectfully submitted,

/s/ Philip Hines

Philip M. Hines

cc: All Counsel (via ECF)